

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LY TRI,

Plaintiff,

v.

C. GUTIERREZ, et al.,

Defendants.

Case No.: 1:22-cv-00836 SKO (PC)

**ORDER GRANTING DEFENDANT
GUTIERREZ'S MOTION TO STAY THE
DEADLINE FOR THE FILING OF A
RESPONSIVE PLEADING**

(Doc. 17)

Plaintiff Ly Tri is proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983.

I. INTRODUCTION

Following service of process on Defendants Gutierrez and McNutt, Defendant McNutt filed a Motion to Dismiss for a lack of subject matter jurisdiction on July 26, 2023. (Doc. 16.) Plaintiff's opposition to the motion is due within 21 days of service of that motion.

On July 27, 2023, Defendant Gutierrez filed a Motion to Stay Responsive Pleading Deadline Pending Court's Ruling on Defendant McNutt's Motion to Dismiss. (Doc. 17.) As to this motion, the Court finds a response from Plaintiff unnecessary.

II. DISCUSSION

Defendant Gutierrez asks this Court to stay the deadline for the filing of his responsive

1 pleading pending the outcome of Defendant McNutt’s motion to dismiss. (Doc. 17.) Gutierrez
2 contends that if McNutt’s motion is granted, the case will proceed on Plaintiff’s First Amendment
3 claim against Gutierrez. (*Id.* at 3.) Should McNutt’s motion be denied, however, staying the
4 deadline for a responsive pleading would promote the interests of judicial economy and avoid
5 duplicity of pleadings. (*Id.* at 4.) Gutierrez requests the deadline for the filing of a responsive
6 pleading, whether solely as to Gutierrez or jointly as to both Gutierrez and McNutt, be extended
7 to “thirty days from the date of any ruling” on McNutt’s pending motion to dismiss. (*Id.*)

8 A district court has the inherent power to stay its proceedings. This power to stay is
9 “incidental to the power inherent in every court to control the disposition of the causes on its
10 docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North*
11 *American Co.*, 299 U.S. 248, 254 (1936); *see also Federal Sav. & Loan Ins. Corp. v. Molinaro*,
12 889 F.2d 899, 902 (9th Cir. 1989) (“A court may decide to stay the civil case when required by
13 the interests of justice”).

14 This Court finds a stay of Defendant Gutierrez’s deadline for the filing of a responsive
15 pleading, pending the outcome of Defendant McNutt’s motion to dismiss, promotes judicial
16 economy and benefits the litigants in this action by avoiding potentially duplicative pleading.
17 *Landis*, 299 U.S. at 254; *see also, e.g., Smith v. Diaz*, No. 20-cv-04335-HSG, 2022 WL 827644,
18 at *1 & n.1 (N.D. Cal. Mar. 18, 2022) (certain defendants moved to dismiss prisoner plaintiff’s
19 complaint; defendants not a party to the motion granted stay of responsive pleading deadline to
20 allow single answer to be filed); *Steadman v. Bassett Furniture Industries, Inc.*, No. 13cv308 JSH
21 (RBB), 2014 WL 12577587, at *9 (S.D. Cal. Mar. 27, 2014) (defendant’s motion to stay deadline
22 to file answer granted to avoid duplicative pleadings while avoiding unnecessary delay following
23 motions to dismiss).

24 III. CONCLUSION AND ORDER

25 Accordingly, for the reasons given above, **IT IS HEREBY ORDERED** that:

- 26 1. Defendant Gutierrez’s motion to stay the responsive pleading deadline (Doc. 17) is
27 **GRANTED;**
- 28 2. The deadline for the filing of a responsive pleading by Defendant Gutierrez is

